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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,627	03/17/2004	Igor Rukhman	1662/63303	4926
26646	7590	07/20/2007		
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER CHUNG, SUSANNAH LEE	
			ART UNIT	PAPER NUMBER
			1626	
			MAIL DATE	DELIVERY MODE
			07/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/802,627

Applicant(s)

RUKHMAN ET AL.

Examiner

Susannah Chung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,3-6,8,9,12-14,17 and 81-94 is/are pending in the application.
- 4a) Of the above claim(s) 1,3-6,8,9,12-14,81,82 and 84-94 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 and 83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claims 1, 3-6, 8-9, 12-14, 17, 81-94 are pending in the instant application. Claims 2, 7, 10-11, 15-16, and 18-80 are canceled. Claims 1, 3-6, 8-9, 12-14, 81-82, and 84-94 are withdrawn. Claims 17 and 83 are pending in the instant application.

Response to Non-Final Office Action

Response and Amendment of Claims

Acknowledgment is made of applicant's response and amendment of the claims filed on 5/14/2007.

Election/Restrictions

Applicants request to rejoin all the claims of the non-elected groups is acknowledged. Rejoinder of groups will be examined at that point in time when allowable subject matter is found.

35 USC 102/103 Rejection

Claims 17 and 83 were rejected under 35 U.S.C. 102(b) as being anticipated by Buhlmyer et al., U.S. Pat. Num. 5,399,578. Applicants arguments have been considered, but are not found persuasive. The outstanding issues that have not been overcome is that SOMETHING WHICH IS OLD DOES NOT BECOME PATENTABLE UPON THE DISCOVERY OF A NEW PROPERTY and AN INHERENT FEATURE NEED NOT BE RECOGNIZED AT THE TIME OF THE INVENTION. MPEP 2112. Applicants state that "the fact that Bulmayer provides a melting range for its product means that its product is not purely amorphous" on page 7 of the response. This statement is unclear because in Claim 83 there is a

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melting point range. Please see discussion of melting points and other characteristics in the previous office action.

In addition, applicants do not address the current product's unexpected properties over the prior art. Using the process outlined in the prior art the amorphous form of valsartan can be made by one of ordinary skill in the art. Absent unexpected data to the contrary, the product as claimed in the instant application is found in the prior art.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susannah Chung whose telephone number is (571) 272-6098. The examiner can normally be reached on M-F, 8am-5pm.

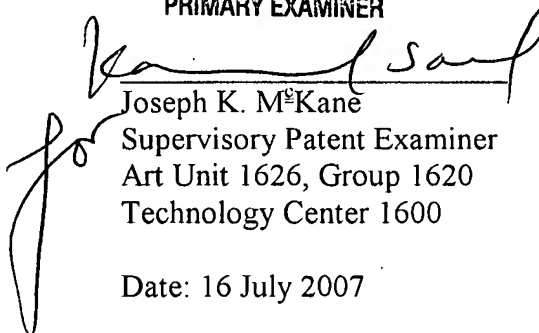
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLC

KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER



Joseph K. McKane
Supervisory Patent Examiner
Art Unit 1626, Group 1620
Technology Center 1600

Date: 16 July 2007